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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,141	03/15/2001	Yoichi Iki	108933	3052

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EXAMINER

LE, MIRANDA

ART UNIT PAPER NUMBER

2167

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,141

Applicant(s)

IKI ET AL.

Examiner

Miranda Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8 and 10-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. This communication is responsive to Amendment filed 06/17/2005.
2. Claims 1-2, 4-8, 10-15 are pending in this application. Claims 1, 6, 7, 12 are independent claims. In the Amendment, claims 1, 6, 7, 12 have been amended; claims 3, 9 have been cancelled.
3. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive. Therefore, the finality of that action is withdrawn, and a new Final Action follows.

#### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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5. Claims 1-2, 4-8, 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins et al. (US Patent No. 5,799,319), in view of Bacus et al. (US Patent No. 6,226,392).

As to claims 1, 7, Atkins teaches an image data acquiring section for acquiring image data (Abstract) to be stored as a file (Abstract),

a structure information setting section (Fig. 1) enabling a user to arbitrarily set beforehand structure information that defines structure of a file name (i.e. The image data is saved as an image file, which is assigned a file name corresponding to the submission number followed by a suffix, col. 2, lines 33-37) by showing a file name setting screen on a display, the file name being given to the image data acquired by the image data acquiring section when the image data is stored in a memory (Abstract, col. 2, lines 1-42);

a name-generating section for acquiring, for each data acquired by said image data acquiring section (i.e. The image data is saved as an image file, which is assigned a file name corresponding to the submission number followed by a suffix, col. 2, lines 33-37), information relating to said image data (i.e. For each subsequent image file saved, the suffix is automatically updated, col. 2, lines 37-38), according to the structure information that is set by the structure information setting section (i.e. This frozen image may be saved or unfrozen and another image obtained. A frozen image is saved by selecting the save feature, which saves the image as a JPEG file, col. 2, lines 29-39), to automatically generate said file name using the acquired information (col. 2, lines 1-42);

a managing section for storing the image data acquired by the image data acquiring section, and for managing the stored image data using the file names (i.e. The

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image data is saved as an image file, which is assigned a file name corresponding to the submission number followed by a suffix, col. 2, lines 33-37) generated by the name-generating section (col. 2, lines 1-42);

said structure information setting section shows the file name setting screen on the display (Fig. 1) in response to the user's instruction before shooting (i.e. an image is captured, col. 2, line 24), and sets structure information according to the user's input (col. 2, lines 1-42);

Atkins does not specifically teach microscope image data.

However, Bacus teaches an image data acquiring section for acquiring microscope image data (Abstract) to be stored as a file (i.e. the image has been scanned and stored in memory on hard disks or other storage, col. 11, lines 13-23).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to combine the teachings of Atkins with the teachings of Bacus to implement microscope image data because it would enable users to control an automated microscope to acquire on a computer screen or window images of the specimen at different magnifications as selected by the person.

**As to claims 6, 12,** Atkins teaches an image data acquiring section for acquiring stored image data to which a file name is given in advance (Abstract);

a structure information setting section (Fig. 1) enabling a user to arbitrarily set beforehand structure information that defines a structure of a virtual file name by showing a file name setting screen on a display (i.e. The image data is saved as an image file, which is assigned a file name corresponding to the submission number followed by

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a suffix, col. 2, lines 33-37), the virtual file name being given to the image data acquired by the image data acquiring section (i.e. For each subsequent image file saved, the suffix is automatically updated, col. 2, lines 37-38) when the image data is stored in a memory (col. 2, lines 1-63);

a name-generating section (i.e. The image data is saved as an image file, which is assigned a file name corresponding to the submission number followed by a suffix, col. 2, lines 33-37) for acquiring, for each said image data acquired by said image data acquiring section, information relating to said image data (i.e. For each subsequent image file saved, the suffix is automatically updated, col. 2, lines 37-38), according to the structure information that is set by the structure information setting section (i.e. This frozen image may be saved or unfrozen and another image obtained. A frozen image is saved by selecting the save feature, which saves the image as a JPEG file, col. 2, lines 29-39), to automatically generate said virtual file name using the acquired information (col. 2, lines 1-42);

a managing section for storing (i.e. The image data is saved as an image file, which is assigned a file name corresponding to the submission number followed by a suffix, col. 2, lines 33-37) said image data acquired by said image data acquiring section and for managing the stored image data using the virtual file name (i.e. For each subsequent image file saved, the suffix is automatically updated, col. 2, lines 37-38) generated by the name-generating section (col. 2, lines 1-42);

said structure information setting section shows the file name setting screen on the display (Fig. 1) in response to the user's instruction before shooting (i.e. an image is

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captured, col. 2, line 24), and sets structure information according to the user's input (col. 2, lines 1-42);

Although Atkins does not specifically teach microscope image data, Bacus teaches an image data acquiring section for acquiring microscope image data (Abstract) to be stored as a file (i.e. the image has been scanned and stored in memory on hard disks or other storage, col. 11, lines 13-23).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to combine the teachings of Atkins with the teachings of Bacus to implement microscope image data because it would enable users to control an automated microscope to acquire on a computer screen or window images of the specimen at different magnifications as selected by the person.

As to claims 2, 8, Atkins teaches the image data acquiring section acquires stored image data to which a file name is given in advance (See Abstract) and associated information (i.e. The image data is saved as an image file, which is assigned a file name corresponding to the submission number followed by a suffix, col. 2, lines 33-37) that is associated with the stored image data (col. 2, lines 1-42);

the name-generating section (See Fig. 1) acquires, for each said image data acquired by said image data acquiring section, information relating to said image data (i.e. For each subsequent image file saved, the suffix is automatically updated, col. 2, lines 37-38), from said associated information according to the structure information that is set by the structure information setting section, to generate a new file name (the suffix

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is automatically updated, col. 2, lines 37-38) using the acquired information (col. 2, lines 1-42).

**As to claims 4, 10,** Atkins teaches a classifying condition setting section capable of setting arbitrarily a classifying condition (i.e. series of related images) to be used for classifying the image data stored in the managing section into a plurality of groups (col. 2, lines 1-42);

a classifying section for acquiring information corresponding to said classifying condition from the file names (i.e. the file names 12345-01 and 12345-02 belong to group 12345) of the image data stored in said managing section, to classify image data having the same said information acquired corresponding to said classifying condition into a same group (col. 2, lines 1-42), wherein

said managing section manages, image data stored therein in advance, in two ways, which are managing by the file names generated by the name-generating section (i.e. the suffix is automatically updated, col. 2, line 38) and managing by a result of classifying (i.e. The image data is saved as an image file, which is assigned a file name corresponding to the submission number followed by a suffix, col. 2, lines 33-37) by the classifying section (col. 2, lines 1-63).

**As to claims 5, 11,** Atkins teaches a thumbnail display section for displaying a thumbnail image (i.e. These images can also be viewed collectively, in a so-called "thumbnail" view) that is a reduced image of an image corresponding to the image data stored in said managing section (col. 2, lines 1-63); and



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a displaying condition setting section for setting, as a displaying condition to be used for selecting the image to be displayed by the thumbnail display section (i.e. These images can also be viewed collectively, in a so-called "thumbnail" view, on a single screen by selecting this feature), information that is included in the file name corresponding to the image to be displayed (col. 2, lines 1-63);

said thumbnail display section selects the file name including the information that is set as the displaying condition by the displaying condition setting section (i.e. These images can also be viewed collectively, in a so-called "thumbnail" view, on a single screen by selecting this feature), from file names of the image data stored in said managing section, and displays the image corresponding to the selected file name (col. 2, lines 1-63).

As to claims 13-15, Atkins teaches the name-generating section gives, to each said image data acquired, the file name generated according to set structure information (i.e. a set is created under the submission number. This set is intended to hold a plurality of image data files. This information is entered by a user prior to saving any images, col. 2, lines 12-14), until the structure information is reset by the structure information setting section (col. 2, lines 1-42).

### ***Response to Arguments***

6. Applicant's arguments regarding Aoki does not disclose "microscope image data" a structure information setting section enabling a user to arbitrarily set before hand" with

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respect to claims 1, 6, 7, 12 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Miranda Le whose telephone number is (571) 272-4112. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene, can be reached on (571) 272-4107. The fax number to this Art Unit is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

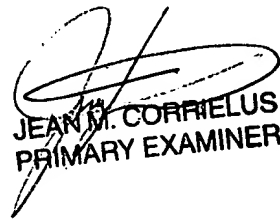
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Miranda Le  
June 30, 2005



JEAN M. CORRIELUS  
PRIMARY EXAMINER